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13 UNITED STATES DISTRICT COURT  
14  
15 NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

\*E-FILED - 4/7/06\*

17 In re ESS TECHNOLOGY, INC.  
SECURITIES LITIGATION

) Master File No. C-02-4497-RMW

) CLASS ACTION

19 This Document Relates To:

) STIPULATION AND ORDER

) REGARDING BRIEFING SCHEDULE ON

20 ALL ACTIONS.

) MOTION TO AMEND AND VACATING

) DISCOVERY CUT-OFF DUE TO PENDING  
21 MOTION TO AMEND

1 Plaintiff Steve Bardack and defendants ESS Technology, Inc., Robert L. Blair, Patrick Ang,  
2 Frederick S.L. Chan, and James B. Boyd, by and through their respective counsel of record, hereby  
3 stipulate, and request that the Court enter an order thereon, as follows:

4 WHEREAS, plaintiff has filed a motion for leave to file an amended complaint and  
5 defendants have notified plaintiff that they will oppose the motion and the parties have agreed on a  
6 briefing schedule for the motion;

7 WHEREAS, defendants have notified plaintiff that in the event that his motion for leave to  
8 amend is granted, they intend to file a motion to dismiss;

9 WHEREAS, defendants contend that the automatic discovery stay provided by the Private  
10 Securities Litigation Reform Act of 1995 has been triggered and that all discovery is stayed;

11 WHEREAS, plaintiff does not agree that the automatic stay has been triggered and reserves  
12 his right to move to continue discovery or to lift the stay, if any, but does agree to provide no less  
13 than 60 days notice; and

14 WHEREAS, the scheduling order in this case presently sets a May 15, 2006 discovery cut-  
15 off.

16 THEREFORE, SUBJECT TO APPROVAL OF THE COURT, IT IS HEREBY  
17 STIPULATED THAT:

18 1. Defendants will file their opposition to the motion for leave to amend on or before  
19 April 18, 2006; plaintiff will file any reply to his motion for leave to amend on or before May 5,  
20 2006 and the hearing on the motion to amend will be noticed for May 19, 2006;

21 2. Pursuant to his agreement, unless the parties agree otherwise, plaintiff will not notice  
22 a motion to continue discovery or to lift the stay on less than 60 days notice;

23 3. The May 15, 2006 discovery cut-off and other dates set in the scheduling order are  
24 vacated; and

25 4. The parties will submit a revised scheduling order after the Court rules on plaintiff's  
26 motion to amend.

1 DATED: March 29, 2006

LERACH COUGHLIN STOIA GELLER  
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22 DATED: March 29, 2006

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25 /s/ MEREDITH N. LANDY  
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Attorneys for Defendants

I, John K. Grant, am the ECF User whose ID and password are being used to file this Stipulation and [Proposed] Order Regarding Briefing Schedule on Motion to Amend and Vacating Discovery Cut-Off Due to Pending Motion to Amend. In compliance with General Order 45, X.B., I hereby attest that Meredith N. Landy of O'Melveny & Meyers LLP has concurred in this filing.

/s/ JOHN K. GRANT  
JOHN K. GRANT

\* \* \*

**ORDER**

PURSUANT TO STIPULATION IT IS SO ORDERED.

1. Defendants will file their opposition to the motion for leave to amend on or before April 18, 2006; plaintiff will file any reply to his motion for leave to amend on or before May 5, 2006 and the hearing on the motion to amend will be noticed for May 19, 2006;

2. Pursuant to his agreement, unless the parties agree otherwise, plaintiff will not notice a motion to continue discovery or to lift the stay on less than 60 days notice;

3. The May 15, 2006 discovery cut-off and other dates set in the scheduling order are vacated; and

4. The parties will submit a revised scheduling order after the Court rules on plaintiff's motion to amend.

DATED: 4/7/06 /S/ RONALD M. WHYTE  
THE HONORABLE RONALD M. WHYTE  
UNITED STATES DISTRICT COURT JUDGE

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CERTIFICATE OF SERVICE

I hereby certify that on March 29, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

/s/ JOHN K. GRANT

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